

REMARKS

I. STATUS OF THE CLAIMS

Claims 1-114 were pending in this application. Claims 51-81, 84-93, 96-106, and 109-114 have been withdrawn. Claims 1-50, 82, 83, 94, 95, 107, and 108 will be pending and at issue.

II. ELECTION/RESTRICTION REQUIREMENT

The Examiner required restriction to one of the following inventions under 35 U.S.C. 121:

- I.** Claims 1-50, 82, 83, 94, 95, 107, 108, drawn to a lipopeptide.
- II.** Claims 51-64, drawn to a method of making a lipopeptide.
- III.** Claims 65-70, 110-114, drawn to a method to eliciting production of an antibody.
- IV.** Claims 71-81, drawn to a method of inducing infertility in a subject.
- V.** Claims 85-93, 97-106, drawn to a method of inducing an immune response.

Applicants elect group I (Claims 1-50, 82, 83, 94, 95, 107, 108) drawn to a lipopeptide **with traverse.**

The Examiner stated that “In addition to the foregoing, applicants are required under 35 U.S.C. §121 to elect disclosed species/subgenera (as follows) for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. In the event that group I is chosen for examination, election is required of each of the following:

a) one of the following: (i) a lipopeptide per se, (ii) a contraceptive agent that comprises a lipopeptide, (iii) a composition comprising a lipopeptide and a pharmaceutically acceptable excipient, or (iv) a vaccine that comprises a lipopeptide;

b) a specific and fully defined “B cell epitope”;

c) a specific and fully defined “T helper cell epitope”;

d) a specific “lipid moiety”.

Applicants elect, with traverse, the following species:

a) (i) a lipopeptide per se;

b) the LHRH B-cell epitope of SEQ ID NO:2;

c) the CD4+ T-cell epitope of SEQ ID NO:1; and

d) Pam₂Cys.

Applicants note that claims 1-24, 30, 32-34, 37-45, and 49-50 are readable on the above noted species elections.

Applicants withdraw, without prejudice, the non-elected claims in Group II (Claims 51-64), Group III (Claims 65-70, 110-114), Group IV (Claims 71-81) and Group V (85-93, 97-106). Applicants also withdraw ungrouped claims 84, 96, and 109. Applicants understand that the ungrouped claims and the process claims of groups II, III, IV and V will be considered for rejoinder should the product claims of group I be found allowable. In addition, Applicants reserve the right to introduce non-elected subject matter in this or a separate continuation or divisional application.

III. Traversal

Applicants traverse the Restriction Requirement as the Examiner followed restriction practice rather than unity of invention practice. Applicants remind the Examiner that this application was submitted under 35 U.S.C. 371 and is therefore subject to unity of invention practice as described in MPEP Chapter 1800, and not restriction practice as described in MPEP Chapter 800. When making a lack of unity of invention requirement, the Examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group.

In the instant application, the Examiner has improperly followed restriction practice rather than unity of invention practice. The Examiner has not explained why each group lacks unity with each other group, i.e., has not explained why there is no single general inventive concept.

Applicants note that the PCT International Preliminary Examination Report for International Application No. PCT/AU2003/001018 did not indicate a lack of unity of invention when searching on and examining a claim set that was substantially similar to those before the Examiner. The Authorized Officer was able to make a reasoned statement under Article 35(2) with regard to novelty, inventive step, and industrial applicability for all claims (1-114).

IV. CONCLUSION

Consideration of the claims is respectfully requested, and a notice of allowance is earnestly solicited. If the Examiner has any questions concerning this Response, the Examiner is invited to telephone Applicants' representative at (415) 875-2316.

Respectfully submitted,
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